IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.6637 OF 2004

Shankar Ramchandra Kulkarni and others)..Petitioners

Versus

Smt.Kamal K. Patwardhan and others)..Respondents

Mr.P.S. Dani for the Petitioners.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 23RD AUGUST 2005

P.C.:

. This Petition challenges concurrent findings of fact of the Courts below whereby the Suit filed by the landlord has been decreed on the ground stipulated in Sections 13(1)(i) and 13(1)(g) of the Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1947. The suit premises being vacant land, Section 13(1)(i) is attracted. Both the Courts below have found that the need of the landlord is bona fide and reasonable and, therefore, has decreed the Suit.

2. Mr.Dani relies on the judgment of this Court in the case of *Vasant Bandoo Kulkarni* vs. *Yasin Ahmed Mujawar since deceased by L.Rs.Sharif Yasin and others*, **1998 (3) Mh.L.J. 62**, and submits that even when the trial Court considers the ground under Section 13(1)(i),

the reasonableness and the bona fides of the landlord in demanding the suit premises must be assessed by the trial Court and the appellate Court. Merely because the landlord wants to construct a building on the open plot, it would not mean that his need is bona fide and reasonable according to the learned Advocate.

3. In the facts and circumstances of the case, the trial Court and the appellate Court have concluded that the need of the landlord was bona fide and genuine. Apart from this, even after the partition of the suit premises, the appellate Court has found that the persons to whose share the suit premises have been allotted, have also a bona fide and reasonable need of the suit premises. In such circumstances, there is no need to interfere. Hence, Writ Petition rejected.

4. On the application of the learned Advocate for the Petitioners, time to vacate the suit premises is granted upto 31st May 2006 on filing the usual undertaking in the Court. Undertaking to be filed within four weeks from today.